

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RONALD L. SEAY,

Plaintiff,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION, *et al.*,

Defendants.

Case No. 1:25-cv-00179-BAM (PC)

ORDER DIRECTING CLERK OF COURT TO
RANDOMLY ASSIGN DISTRICT JUDGE

FINDINGS AND RECOMMENDATIONS
REGARDING DISMISSAL OF ACTION FOR
FAILURE TO EXHAUST
ADMINISTRATIVE REMEDIES

FOURTEEN (14) DAY DEADLINE

Plaintiff Ronald L. Seay ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On July 15, 2025, the Court issued an order requiring Plaintiff to show cause, within twenty-one days, why this action should not be dismissed for failure to exhaust prior to filing suit. (ECF No. 10.) Plaintiff did not file a response, and the deadline to do so has passed.

I. Legal Standard

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity and/or against an officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). Plaintiff's complaint, or any portion thereof, is subject to dismissal if it is frivolous or malicious, if it fails to state a claim upon which relief may be granted, or if it seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2); 28 U.S.C.

1 § 1915(e)(2)(B)(ii).

2 Pursuant to the Prison Litigation Reform Act of 1995 (“PLRA”), “[n]o action shall be
3 brought with respect to prison conditions under [42 U.S.C. § 1983], or any other Federal law, by a
4 prisoner confined in any jail, prison, or other correctional facility until such administrative
5 remedies as are available are exhausted.” 42 U.S.C. § 1997e(a). Prisoners are required to exhaust
6 the available administrative remedies prior to filing suit. *Jones v. Bock*, 549 U.S. 199, 211
7 (2007); *McKinney v. Carey*, 311 F.3d 1198, 1199–1201 (9th Cir. 2002). Exhaustion is required
8 regardless of the relief sought by the prisoner and regardless of the relief offered by the process,
9 *Booth v. Churner*, 532 U.S. 731, 741 (2001), and the exhaustion requirement applies to all suits
10 relating to prison life, *Porter v. Nussle*, 534 U.S. 516, 532 (2002).

11 In rare cases where a failure to exhaust is clear from the face of the complaint, it may be
12 dismissed for failure to state a claim. *See, e.g., Albino v. Baca*, 747 F.3d 1162, 1169 (9th Cir.
13 2014); *Medina v. Sacramento Cty. Sheriff’s Dep’t*, No. 2:16-cv-0765 AC P, 2016 WL 6038181, at
14 *3 (E.D. Cal. Oct. 14, 2016) (“When it is clear from the face of the complaint and any attached
15 exhibits that a plaintiff did not exhaust his available administrative remedies before commencing
16 an action, the action may be dismissed on screening for failure to state a claim.”); *Lucas v. Dir. of*
17 *Dep’t. of Corrs.*, No. 1:14-cv-0590 DAD P, 2015 WL 1014037, at *4 (E.D. Cal. Mar. 6, 2015)
18 (relying on *Albino* and dismissing complaint without prejudice on screening due to plaintiff’s
19 failure to exhaust administrative remedies prior to filing suit).

20 II. Discussion

21 In his complaint, Plaintiff states that there is an inmate appeal or administrative remedy
22 process available at his institution and that he filed an appeal or grievance concerning all of the
23 facts contained in his complaint, however, he states that the process is not completed. (ECF No.
24 1, p. 2.) Plaintiff further states in explanation for why the process is not completed “IN
25 LITIGATION. STILL PENDING.” (*Id.*)

26 Based on the information provided, it appears Plaintiff filed suit prematurely without first
27 exhausting his administrative remedies in compliance with the PLRA, section 1997e(a).
28

III. Conclusion and Recommendation

Accordingly, the Clerk of the Court is DIRECTED to randomly assign a District Judge to this action.

Furthermore, it is HEREBY RECOMMENDED that this action be dismissed, without prejudice, based on Plaintiff's failure to exhaust administrative remedies prior to filing suit.

These findings and recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen (14) days** after being served with these findings and recommendations, Plaintiff may file written objections with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." **Objections, if any, shall not exceed fifteen (15) pages or include exhibits. Exhibits may be referenced by CM/ECF document and page number if already in the record before the Court. Any pages filed in excess of the 15-page limit may not be considered.** The parties are advised that failure to file objections within the specified time may result in the waiver of the "right to challenge the magistrate's factual findings" on appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: August 26, 2025

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE